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Attorneys for Defendants,

New York Life Insurance Company and

MainStay Funds

Our File No: 213687.0002

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ALFRED T. PENG and DIANA PENG,

Plaintiffs,

vs.

DAVID L. GABAY, PINNACLE PLANNING GROUP, JOHN DOES #1-10, GENERAL AGENTS JOHN DOES #11-20, BROKER DEALERS KEYPORT LIFE INSURANCE, SUN LIFE INSURANCE LINCOLN FINANCIAL GROUP, MAINSTAY FUNDS, NEW YORK LIFE TRUST MUTUAL SERVICE CORPORATION, ROYAL ALLIANCE ASSOCIATES INC., THE BEST OF AMERICAN, FIRST SUN AMERICAN LIFE INSURANCE COMPANY PERSHING, BANK OF NEW YORK (clearing house).

Defendants,

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No. 05-cv-3939 (JAG)

Hon. Joseph A. Greenaway, Jr., U.S.D.J.

ORDER OF FINAL JUDGEMENT

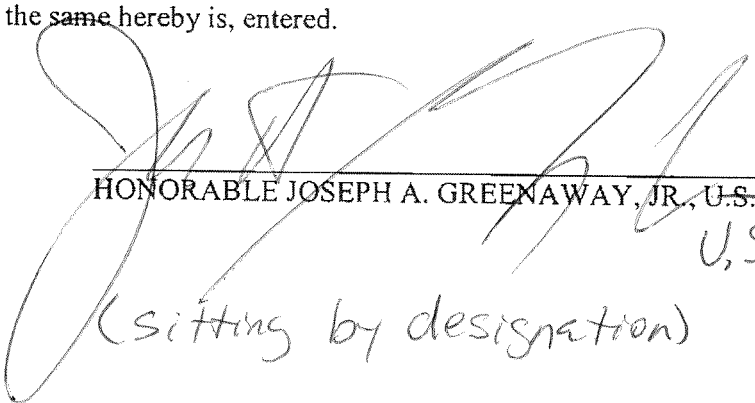
THIS MATTER having been opened to the Federal District Court for the District of New Jersey upon the motion of Defendants, New York Life Insurance Company ("NY Life") and MainStay Funds ("MainStay") (hereinafter collectively referred to as the "Moving Defendants") through their attorneys, Adorno & Yoss LLP (N. Noelle Letcher, Esq., appearing), for this Order, pursuant to Federal Rule of Civil Procedure 58, for the entry of a final judgment with respect to the April 19, 2006 Order dismissing the entirety of Plaintiffs' Complaint against the Moving Defendants, with prejudice, on the grounds set forth therein; and the Court having

considered the moving, opposing and reply briefs and papers, and such oral argument of counsel as may have been heard by this District Court; and for good cause shown;

IT IS on this 3rd day of March, 2010, ~~for the reasons more fully~~
~~set forth in this Court's [bench/written] Opinion dated _____, 2009;~~

ORDERED and ADJUDGED that the Moving Defendants' motion to enter a final order and judgment pursuant to Federal Rule of Civil Procedure 58 with respect to the April 19, 2006 dismissing in the entirety of Plaintiffs' Complaint against Defendants New York Life Insurance Company and MainStay Funds, with prejudice, shall be, and the same hereby is, granted; and it is

FURTHER ORDERED and ADJUDGED, therefore, that Final Judgment is hereby entered as to the dismissal of Plaintiffs' claims against Defendants NY Life and MainStay, Plaintiffs shall maintain no cause of action against Defendants New York Life Insurance Company and MainStay Funds and a final judgment in favor of Defendants New York Life Insurance Company and MainStay Funds as to Plaintiffs' Complaint against them shall be, and the same hereby is, entered.


HONORABLE JOSEPH A. GREENAWAY, JR., U.S.D.J.

U.S.C.J.

(sitting by designation)